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RACIAL DISCRIMINATION
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Eighth periodic reports of States parties due in 1993

Addendum

LUXEMBOURG*

[20 June 1994]

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* The sixth and seventh periodic reports submitted by the Government of Luxembourg are contained in a single document, CERD/C/206/Add.1.

The information submitted by Luxembourg in accordance with the consolidated guidelines concerning the initial part of reports of States parties is contained in the core document HRI/CORE/1/Add.10.

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I. SITUATION OF IMMIGRATION IN LUXEMBOURG

1. A number of tables with information on immigration in Luxembourg will be found in the annex* to this report. They contain the following data:

(a) Luxemburgers and aliens in Luxembourg, 1 January 1993;

(b) Table of nationalities, 31 August 1992;

(c) Luxemburgers and aliens in Luxembourg, 31 August 1992;

(d) Aliens by nationality, 31 August 1992;

(e) Citizens of Luxembourg, citizens of the Union, other aliens, 31 August 1992;

(f) Percentage of aliens in cantons by commune on 1 March 1991;

(g) Luxemburger and alien wage-earners in Luxembourg, September 1992;

(h) Categories of wage-earner in Luxembourg, September 1992;

(i) Luxemburger and alien wage-earners by employment sector, 30 September 1992;

(j) Persons who cross the frontier of Luxembourg to work there, by country of residence, September 1992 - excluding Luxemburgers.

II. ACTION AT THE LEVEL OF THE EUROPEAN UNION

2. Anti-discrimination policies have become a matter of increasing urgency within the European Union as a result of the recent surge of racist and xenophobic attacks in Europe. The concern felt has been demonstrated by the adoption of a formal declaration and of a plan of action by the heads of State and Government of the States members of the Council of Europe (Vienna, October 1993). Racist and xenophobic acts in several member States, including attacks, arson and murder, cannot be left without response. It is the responsibility of the member States to come to grips with the problem. To this end, the Commission has undertaken a thorough assessment of the legal instruments available in the various member States for combating all forms of discrimination, racism and xenophobia. The findings of the survey have been published under the title "Legal means of combating racism and xenophobia". This study concluded that the member States should examine the means of appeal offered by the law to their residents in respect of racist acts, should introduce such systems where they were lacking, should ensure that these were vigorously applied and should organize campaigns to convince both victims and perpetrators that any breaches would lead to prosecution.

3. In 1986 the problem of racism and xenophobia led to a joint declaration by the Parliament, the Council and the Commission. Since then, efforts to

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* This document may be consulted in the secretariat's archives.

combat racism and xenophobia have been given priority by the Council of the European Union and the European Parliament has repeatedly demanded appropriate measures. In order to convince young people of the inherent value of cultural diversity and to encourage them to accept it, the recent Commission proposal for a programme of action aimed at youth (Youth for Europe III) provides support for projects designed to combat racism and xenophobia and is targeted at all young people living in the member States.

4. The Council of Ministers of Justice and Internal Affairs recently adopted a number of conclusions in which it acknowledged the importance of the work of the European Parliament in this area and approved a series of measures designed to mark a first step towards promoting improved cooperation among member States in preventing racist and xenophobic acts. The Council also agreed that other tangible measures might be necessary.

III. THE SITUATION AS REGARDS LUXEMBOURG

5. The Grand Duchy of Luxembourg has not been faced with frequent racist incidents so far. Nevertheless, there have been sporadic albeit serious acts such as the desecration of the Jewish cemetery of Esch/Alzette on 27 February 1994.

6. To show how few racist incidents there have been, it is worth mentioning that during the last three years only three sentences have been handed down in cases involving acts of racism. The three judicial decisions found breaches of article 15 of the Act of 20 July 1869 (as amended) on the press and offences committed by the media.

A. The integration of aliens in the communes

7. The previous report, containing the sixth and seventh periodic reports of Luxembourg, described the Grand Duchy regulation of 5 August 1989 which defines the organization and operation of the Consultative Commissions for Aliens (CCEs). Article 1 of the regulation states: "In communes in which over 20 per cent of the resident population are aliens, the communal council shall set up a special consultative commission for aliens".

8. In 1991 an assessment was carried out throughout Luxembourg (in 112 communes) of the implementation of the regulation; its results and conclusions were as follows:

Date: 31 December 1991
Number of replies to the questionnaire: 112

Number of communes with over 20 per cent of aliens:	61
Number of communes with less than 20 per cent of aliens:	51
	112

Number of communes with a CCE:	51
Number of communes without a CCE:	61
	112

9. The reasons most frequently advanced by those communes with over 20 per cent of aliens but without a CCE were:

A lack of interest on the part of both Luxemburgers and aliens;

A lack of candidates;

The large number of seasonal workers who temporarily swell the percentage of aliens to over 20 per cent;

A percentage of aliens verging on 20 per cent.

10. Number of meetings of CCEs during 1991:

12 communes held no meeting in 1991

2 communes held 10 meetings in 1991

The average number of meetings per year was 3.

11. Only 18 of the 51 communes in which a CCE has been set up have regularly submitted their report to the minister responsible for the Immigration Service.

Relations between the CCE and the communal authorities

12. As a rule relations between the CCEs and the communal authorities are beset by few problems. They are conducted through the specified channels, i.e. minutes transmitted to the council of aldermen. The minutes are occasionally accompanied by applications or letters setting forth complaints which are sent directly to the board of burgomasters and aldermen.

13. Numerous CCEs have observed that communication poses few problems as the burgomaster, one of the aldermen or communal councillors is chairman of the CCE, to which members of the communal council also belong.

14. There are also meetings between representatives of the CCEs and the college of aldermen.

Relations between the CCEs and the commune's inhabitants

15. Numerous CCEs have issued circulars to inform inhabitants. They occasionally organize briefings and public meetings to discuss specific problems. Other CCEs organize various festivals, exhibitions, language courses, etc.

Means of information available to CCEs

16. They are numerous and varied:

Communal newsletter;

Citizens' guide;

Circulars delivered to all households;

Information bulletins;

Press notices and communiqués;

Brochures on specific topics;

An "info" channel on the television network.

B. Participation in European elections

17. Article 8 of the Treaty on European Union, signed at Maastricht on 7 February 1992 and ratified by the Luxembourg Chamber of Deputies on 2 July of the same year contains a provision instituting citizenship of the Union for every person holding the nationality of a member State. Article 8 (b), paragraph 2, stipulates that "every citizen of the Union residing in a member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements to be adopted before 31 December 1994 by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament: these arrangements may provide for derogations where warranted by problems specific to a member State". This provision will already apply to the forthcoming elections to the European Parliament on 12 June 1994.

18. The implementation arrangements were adopted by the Council on 6 December 1993 in the form of a directive setting out the arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a member State of which they are not nationals (directive No. 93/109 EC). The directive states that in a spirit of subsidiarity and proportionality, the Commission proposes to determine the modalities ... in the form of a directive and to restrict the contents of this directive to what is strictly necessary to achieve the stated objective. (Presentation of the grounds for the directive, general remarks).

19. As the directive expressly states that it does not seek to harmonize, in a global manner, the electoral systems of the member States (commentary on the articles, art. 1) and as the Treaty on European Union makes provision for citizens to exercise the right to vote and be elected under the same conditions as nationals of the State in which they intend to exercise their right, i.e. their State of residence, they are subject to ordinary Luxembourg electoral law. Consequently, citizens of the Union must comply with the same rules, satisfy the same requirements, observe the same procedures and perform the same obligations as Luxemburgers in this respect.

20. Accordingly, they must meet the age requirement on the same date as Luxemburgers, i.e. 1 January of the year of the elections. Moreover, in order to take part in the elections, they must have their name placed on the electoral roll.

21. Lastly it should be borne in mind that, since voting is mandatory in Luxembourg, those citizens of the Union who apply to vote will henceforth be required strictly to comply with this obligation.

22. After stating that the Council will adopt arrangements for voting and standing as a candidate, article 8 (b), paragraph 1 of the Treaty on European Union states that "these arrangements may provide for derogations where warranted by problems specific to a member State". This sentence means that a country which is granted a derogation may not be granted it in respect of the principle of the right to vote and stand for election in the country of residence, but only in respect of the arrangements. Moreover, the arrangements provide for derogations which are not merely temporary. As long as the specific problems warrant them, the derogations are maintained.

23. The Council of the European Union has, pursuant to the directive, granted Luxembourg a number of derogations on account of the exceptionally high percentage of Community citizens residing in Luxembourg (over 20 per cent). There are three such derogations:

(a) Although the directive permits a citizen of the Union residing in another member State to vote there without the need to prove a period of residence, this right may be exercised in Luxembourg only by citizens of the Union who have been living in the country for at least five years;

(b) Similarly, the directive permits a citizen of the Union to stand for election in the European elections in his country of residence without a period of residence being required; in Luxembourg, 10 years' residence is required;

(c) Lastly, the derogations are supplemented by a provision permitting the adoption of appropriate measures "with regard to the composition of lists of candidates and which are intended in particular to encourage the integration of non-national citizens of the Union" (art. 14, para. 1, second part, of the directive). This provision is an allusion to the final preambular paragraphs of the directive which refer to the aim of integration in the following terms: citizenship of the Union is intended to enable citizens of the Union to integrate better in their host country and in this context, it is in accordance with the intentions of the authors of the Treaty to avoid any polarization between lists of national and non-national candidates; this risk of polarization concerns in particular a member State in which the proportion of non-citizens of the Union of voting age exceeds 20 per cent of the total number of citizens of the Union of voting age who reside there; therefore, it is important that this member State may lay down, in compliance with article 8 (b) of the Treaty, specific provisions concerning the composition of lists of candidates.

24. It is pursuant to this provision and these arguments that Luxembourg legislation prohibits candidate lists having a majority of candidates who do not hold Luxembourg nationality.

25. The Government of Luxembourg decided that these provisions would allow Community citizens established in Luxembourg for 5 or 10 years, as appropriate, to participate, if they so wished, in the selection of Luxembourg representatives to the European Parliament.

26. The Government has endeavoured to engage in a dialogue and a broad consultation with political parties, trade unions, communes and the national immigration council. The consultation was preceded by a survey which clearly depicted the problems on the basis of factual data: the population in Luxembourg aged over 18 originating from the Community comprises 71.3 per cent of Luxemburgers and 28.7 per cent of citizens from other EC countries (at 1 January 1992). The survey also showed that although many citizens of certain third States acquire Luxembourg nationality (by naturalization or choice), fewer citizens of the Community do so: this is understandable as the protection afforded by European citizenship (right of residence, etc.) makes it less worthwhile to acquire Luxembourg nationality.

27. Consequently, relaxing the conditions for the acquisition of Luxembourg nationality does not seem to represent a substitute for the voting right enjoyed by Community citizens.

28. The law determining arrangements for the election to the European Parliament was adopted on 28 January 1994. Applications for registration on the electoral roll had to be submitted to the board of burgomasters and aldermen by 1 March 1994. In view of the extremely short period between the adoption of the law and the time-limit set, an extensive campaign was undertaken to inform European citizens and encourage them to register. An information leaflet in six languages was sent by the communal administrations to all Union citizens established in Luxembourg, and a campaign in the press and on posters was designed to have a mass impact. A total of 6,907 citizens of the Union have had their name placed on the electoral rolls.

29. This figure breaks down as follows in terms of nationalities:

Belgian:	703
French:	754
German:	628
Dutch:	189
Italian:	2,836
Danish:	27
Irish:	75
United Kingdom:	190
Spanish:	133
Greek:	16
Portuguese:	1,356

30. The total of 6,907 seems disappointing, as approximately 45,000 citizens of the Union are established in Luxembourg and meet the requirements for registration on the electoral rolls.